

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

METROPOLITAN PROPERTY AND)	
CASUALTY INSURANCE COMPANY,)	
)	
Plaintiff,)	CIVIL ACTION
v.)	NO. 07-10746-NMG
)	
ADVANCED SPINE CENTERS, INC., et al.,)	
)	
Defendants.)	

ORDER ON PENDING MOTIONS

This matter is before the court on the following seven motions: (1) plaintiff's motion to compel the depositions of James Kennedy, Tracy Kennedy and BKR Management, Inc. (Docket No. 240); (2) plaintiff's motion for sanctions against defendants Lawrence Gray and Grace Cater (Docket No. 241); (3) plaintiff's motion for sanctions against Advanced Spine Centers, Inc., Excel Physical Therapy, Inc., Associated Health Care Group, Inc., Admed Healthcare Corp., Future Management Corp., Frederick Giampa, Joseph Giampa and Francis A. Gaimari, Esq. (Docket No. 242); (4) plaintiff's motion to compel the production of documents against Robert Fireman (Docket No. 257); (5) plaintiff's emergency motion for a protective order and/or injunctive relief (Docket No. 260); (6) Robert N. Fireman's motion for costs (Docket No. 264); and (7) defendants' emergency motion for injunctive relief (Docket No. 275). After consideration of the parties' submissions and their oral arguments, it is hereby ORDERED as follows:

1. The plaintiff's motion for sanctions against Lawrence Gray and Grace Cater is ALLOWED IN PART and DENIED IN PART as follows:
 - a. Grace Cater has been dismissed from this action. Accordingly, the motion for sanctions is DENIED AS MOOT with respect to her.

- b. Mr. Gray shall pay monetary sanctions consisting of reasonable costs and attorney's fees incurred by the plaintiff as a result of Mr. Gray's failure to appear at his previously scheduled deposition. However, the plaintiff's request that final judgment be entered against Mr. Gray is DENIED.
- c. Any objection to the costs and attorney's fees sought by the plaintiff and set forth in the Affidavit of Joseph R. Ciollo, Esq. in Support of Motion for Sanctions Against Defendant, Lawrence Gray (Docket No. 285) shall be filed within **ten (10) days** of the date of this Order.
- d. While Mr. Gray's deposition will go forward, it is currently STAYED pending further order of this court regarding Attorney Gaimari's representation of various defendants in this matter.

2. The plaintiff's motion for sanctions against Advanced Spine Centers, Inc., et al. is DENIED WITHOUT PREJUDICE. The plaintiff may renew its motion if it is able to provide authority showing that the challenged conduct, i.e., the refusal to settle litigation except for allegedly "odious" terms, is sanctionable.

3. As agreed by counsel for Mr. Fireman, Robert N. Fireman's motion for costs is hereby WITHDRAWN.

4. The remaining motions (Docket Nos. 240, 257, 260 and 275) remain under advisement pending further order of the court. No depositions shall go forward until the issue of Attorney Gaimari's representation has been resolved.

/ s / Judith Gail Dein
Judith Gail Dein
United States Magistrate Judge

Dated: May 7, 2010